IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2663/2001

LALIT KUMAR
Vs.
JUDGE, MOTOR ACCIDENT CLAIMS TRIBUNAL,
JAIPUR CITY & ORS.

Date: 17.09.2007

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. G.K. Bhartiya for the petitioner.
Mr. Vinod Tyagi for the respondents.

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The short controversy in this writ petition is that while rejecting the claim petition vide judgment dated 30.01.2001, the Motor Accident Claims Tribunal, Jaipur City, Jaipur has observed that there was no fault of the petitioner Lalit Kumar Sahani, owner of the scooter and since amount of Rs. 25,000/- has been paid to the claimant as interim award under Section 140 of the Motor Vehicles Act for no fault. The claim petition has been rejected by the Motor Accident Claims Tribunal and observed that the amount which has been paid by the Insurance Company as interim award to the claimant, is to be recovered from the owner of scooter i.e. petitioner Lalit Kumar, therefore, to this extent the aforesaid judgment dated 30.01.2001 passed by the

Motor Accident Claims Tribunal, Jaipur City, Jaipur has been challenged by the petitioner, the owner of the scooter.

In support of his submissions, the learned counsel for the petitioner has placed reliance on the judgment rendered by the Punjab and Haryana High Court in the case of **Mano Devi And Others vS. Chander Singh And Others, II (1993) ACC 574.**

On the other hand, learned counsel appearing for the respondent Insurance Company has raised preliminary objections regarding maintainability of the writ petition as the petitioner has got alternative remedy under Section 173 of the Motor Vehicles Act, which has not been availed by him.

I have heard rival submissions of the respective parties and have also considered the preliminary objections raised on behalf of the respondents and examined the case on its merit also.

The petitioner has got alternative efficacious remedy under Section 173 of the Motor Vehicles Act and without invoking the alternative remedy which is available to him, the petitioner has preferred this writ petition, which is not maintainable. For condonation of delay in invoking the jurisdiction under Section 173 of the Motor Vehicles Act, as the

petitioner has bonafidely consumed time in filing this writ petition, he can file application under Section 5 of Limitation Act seeking condonation of delay while invoking alternative remedy.

With these observations, the writ petition stands disposed of.

(K.S. RATHORE),J.

/KKC/